

**ASSEMBLY BILL**

**No. 1698**

**Introduced by Assembly Member Nunez**

February 22, 2005

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An act to amend Section 1373 of the Health and Safety Code, and to amend Section 10277 of the Insurance Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1698, as introduced, Nunez. Health care coverage.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and makes a violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires that every health care service plan contract that provides for termination of coverage of a dependent child upon attainment of the limiting age for dependent children shall also provide that attainment of the limiting age shall not terminate the coverage of a child under certain conditions. Existing law establishes similar requirements for group hospital, medical, or surgical expense insurance policies that provide coverage of dependent children.

This bill would prohibit the limiting age for dependent children covered by these health care service plan contracts and insurance policies from being prior to the dependent's 26th birthday.

Because a violation of the bill's requirements with respect to a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1373 of the Health and Safety Code is  
2 amended to read:

3 1373. (a) A plan contract may not provide an exception for  
4 other coverage if the other coverage is entitlement to Medi-Cal  
5 benefits under Chapter 7 (commencing with Section 14000) or  
6 Chapter 8 (commencing with Section 14200) of Part 3 of  
7 Division 9 of the Welfare and Institutions Code, or medicaid  
8 benefits under Subchapter 19 (commencing with Section 1396)  
9 of Chapter 7 of Title 42 of the United States Code.

10 Each plan contract shall be interpreted not to provide an  
11 exception for the Medi-Cal or medicaid benefits.

12 A plan contract shall not provide an exemption for enrollment  
13 because of an applicant's entitlement to Medi-Cal benefits under  
14 Chapter 7 (commencing with Section 14000) or Chapter 8  
15 (commencing with Section 14200) of Part 3 of Division 9 of the  
16 Welfare and Institutions Code, or medicaid benefits under  
17 Subchapter 19 (commencing with Section 1396) of Chapter 7 of  
18 Title 42 of the United States Code.

19 A plan contract may not provide that the benefits payable  
20 thereunder are subject to reduction if the individual insured has  
21 entitlement to the Medi-Cal or medicaid benefits.

22 (b) A plan contract that provides coverage, whether by specific  
23 benefit or by the effect of general wording, for sterilization  
24 operations or procedures shall not impose any disclaimer,  
25 restriction on, or limitation of, coverage relative to the covered  
26 individual's reason for sterilization.

27 As used in this section, "sterilization operations or procedures"  
28 shall have the same meaning as that specified in Section 10120 of  
29 the Insurance Code.

30 (c) Every plan contract that provides coverage to the spouse or  
31 dependents of the subscriber or spouse shall grant immediate

1 accident and sickness coverage, from and after the moment of  
2 birth, to each newborn infant of any subscriber or spouse covered  
3 and to each minor child placed for adoption from and after the  
4 date on which the adoptive child's birth parent or other  
5 appropriate legal authority signs a written document, including,  
6 but not limited to, a health facility minor release report, a medical  
7 authorization form, or a relinquishment form, granting the  
8 subscriber or spouse the right to control health care for the  
9 adoptive child or, absent this written document, on the date there  
10 exists evidence of the subscriber's or spouse's right to control the  
11 health care of the child placed for adoption. No plan may be  
12 entered into or amended if it contains any disclaimer, waiver, or  
13 other limitation of coverage relative to the coverage or  
14 insurability of newborn infants of, or children placed for  
15 adoption with, a subscriber or spouse covered as required by this  
16 subdivision.

17 (d) Every plan contract that provides that coverage of a  
18 dependent child of a subscriber shall terminate upon attainment  
19 of the limiting age for dependent children specified in the plan,  
20 *which may not be prior to a dependent's 26th birthday*, shall also  
21 provide in substance that attainment of the limiting age shall not  
22 operate to terminate the coverage of the child while the child is  
23 and continues to be both (1) incapable of self-sustaining  
24 employment by reason of mental retardation or physical handicap  
25 and (2) chiefly dependent upon the subscriber for support and  
26 maintenance, provided proof of the incapacity and dependency is  
27 furnished to the plan by the member within 31 days of the  
28 request for the information by the plan or group plan  
29 contractholder and subsequently as may be required by the plan  
30 or group plan contractholder, but not more frequently than  
31 annually after the two-year period following the child's  
32 attainment of the limiting age.

33 (e) A plan contract that provides coverage, whether by specific  
34 benefit or by the effect of general wording, for both an employee  
35 and one or more covered persons dependent upon the employee  
36 and provides for an extension of the coverage for any period  
37 following a termination of employment of the employee shall  
38 also provide that this extension of coverage shall apply to  
39 dependents upon the same terms and conditions precedent as  
40 applied to the covered employee, for the same period of time,

1 subject to payment of premiums, if any, as required by the terms  
2 of the policy and subject to any applicable collective bargaining  
3 agreement.

4 (f) A group contract shall not discriminate against  
5 handicapped persons or against groups containing handicapped  
6 persons. Nothing in this subdivision shall preclude reasonable  
7 provisions in a plan contract against liability for services or  
8 reimbursement of the handicap condition or conditions relating  
9 thereto, as may be allowed by rules of the director.

10 (g) Every group contract shall set forth the terms and  
11 conditions under which subscribers and enrollees may remain in  
12 the plan in the event the group ceases to exist, the group contract  
13 is terminated or an individual subscriber leaves the group, or the  
14 enrollees' eligibility status changes.

15 (h) (1) A health care service plan or specialized health care  
16 service plan may provide for coverage of, or for payment for,  
17 professional mental health services, or vision care services, or for  
18 the exclusion of these services. If the terms and conditions  
19 include coverage for services provided in a general acute care  
20 hospital or an acute psychiatric hospital as defined in Section  
21 1250 and do not restrict or modify the choice of providers, the  
22 coverage shall extend to care provided by a psychiatric health  
23 facility as defined in Section 1250.2 operating pursuant to  
24 licensure by the State Department of Mental Health. A health  
25 care service plan that offers outpatient mental health services but  
26 does not cover these services in all of its group contracts shall  
27 communicate to prospective group contractholders as to the  
28 availability of outpatient coverage for the treatment of mental or  
29 nervous disorders.

30 (2) No plan shall prohibit the member from selecting any  
31 psychologist who is licensed pursuant to the Psychology  
32 Licensing Law (Chapter 6.6 (commencing with Section 2900) of  
33 Division 2 of the Business and Professions Code), any  
34 optometrist who is the holder of a certificate issued pursuant to  
35 Chapter 7 (commencing with Section 3000) of Division 2 of the  
36 Business and Professions Code or, upon referral by a physician  
37 and surgeon licensed pursuant to the Medical Practice Act  
38 (Chapter 5 (commencing with Section 2000) of Division 2 of the  
39 Business and Professions Code), (i) any marriage and family  
40 therapist who is the holder of a license under Section 4980.50 of

1 the Business and Professions Code, (ii) any licensed clinical  
2 social worker who is the holder of a license under Section 4996  
3 of the Business and Professions Code, (iii) any registered nurse  
4 licensed pursuant to Chapter 6 (commencing with Section 2700)  
5 of Division 2 of the Business and Professions Code, who  
6 possesses a master's degree in psychiatric-mental health nursing  
7 and is listed as a psychiatric-mental health nurse by the Board of  
8 Registered Nursing, or (iv) any advanced practice registered  
9 nurse certified as a clinical nurse specialist pursuant to Article 9  
10 (commencing with Section 2838) of Chapter 6 of Division 2 of  
11 the Business and Professions Code who participates in expert  
12 clinical practice in the specialty of psychiatric-mental health  
13 nursing, to perform the particular services covered under the  
14 terms of the plan, and the certificate holder is expressly  
15 authorized by law to perform these services.

16 (3) Nothing in this section shall be construed to allow any  
17 certificate holder or licensee enumerated in this section to  
18 perform professional mental health services beyond his or her  
19 field or fields of competence as established by his or her  
20 education, training and experience.

21 (4) For the purposes of this section, "marriage and family  
22 therapist" means a licensed marriage and family therapist who  
23 has received specific instruction in assessment, diagnosis,  
24 prognosis, and counseling, and psychotherapeutic treatment of  
25 premarital, marriage, family, and child relationship dysfunctions  
26 which is equivalent to the instruction required for licensure on  
27 January 1, 1981.

28 (5) Nothing in this section shall be construed to allow a  
29 member to select and obtain mental health or psychological or  
30 vision care services from a certificate or license holder who is not  
31 directly affiliated with or under contract to the health care service  
32 plan or specialized health care service plan to which the member  
33 belongs. All health care service plans and individual practice  
34 associations that offer mental health benefits shall make  
35 reasonable efforts to make available to their members the  
36 services of licensed psychologists. However, a failure of a plan  
37 or association to comply with the requirements of the preceding  
38 sentence shall not constitute a misdemeanor.

39 (6) As used in this subdivision, "individual practice  
40 association" means an entity as defined in subsection (5) of

1 Section 1307 of the federal Public Health Service Act (42 U.S.C.  
2 Sec. 300e-1, subsec. (5)).

3 (7) Health care service plan coverage for professional mental  
4 health services may include community residential treatment  
5 services that are alternatives to inpatient care and that are directly  
6 affiliated with the plan or to which enrollees are referred by  
7 providers affiliated with the plan.

8 (i) If the plan utilizes arbitration to settle disputes, the plan  
9 contracts shall set forth the type of disputes subject to arbitration,  
10 the process to be utilized, and how it is to be initiated.

11 (j) A plan contract that provides benefits that accrue after a  
12 certain time of confinement in a health care facility shall specify  
13 what constitutes a day of confinement or the number of  
14 consecutive hours of confinement that are requisite to the  
15 commencement of benefits.

16 SEC. 2. Section 10277 of the Insurance Code is amended to  
17 read:

18 10277. A group hospital, medical or surgical expense  
19 insurance policy delivered or issued for delivery in this state  
20 more than 120 days after the effective date of this section, ~~which~~  
21 *that* provides that coverage of a dependent child of an employee  
22 or other member of the covered group shall terminate upon  
23 attainment of the limiting age for dependent children specified in  
24 the policy, *which may not be prior to a dependent's 26th*  
25 *birthday*, shall also provide in substance that attainment of ~~such~~  
26 *the* limiting age shall not operate to terminate the coverage of  
27 ~~such the~~ child while the child is and continues to be both (a)  
28 incapable of self-sustaining employment by reason of mental  
29 retardation or physical handicap and (b) chiefly dependent upon  
30 the employee or member for support and maintenance, provided  
31 proof of such incapacity and dependency is furnished to the  
32 insurer by the employee or member within 31 days of the child's  
33 attainment of the limiting age and subsequently as may be  
34 required by the insurer, but not more frequently than annually  
35 after the two-year period following the child's attainment of the  
36 limiting age.

37 Group hospital, medical or surgical expense insurance policies  
38 currently approved by the commissioner which are delivered or  
39 issued for delivery more than 120 days after the effective date of  
40 this section shall be automatically construed to be in compliance

1 with this section and need not be refiled or reprinted. Such  
2 policies submitted to the commissioner for approval on and after  
3 the effective date of this section shall contain provisions in  
4 compliance with this section.

5 SEC. 3. No reimbursement is required by this act pursuant to  
6 Section 6 of Article XIII B of the California Constitution because  
7 the only costs that may be incurred by a local agency or school  
8 district will be incurred because this act creates a new crime or  
9 infraction, eliminates a crime or infraction, or changes the  
10 penalty for a crime or infraction, within the meaning of Section  
11 17556 of the Government Code, or changes the definition of a  
12 crime within the meaning of Section 6 of Article XIII B of the  
13 California Constitution.